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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/848,648 | 05/03/2001 | Kenneth John Davey | 90001 | 7238 |

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Allen, Dyer, Dopplet, Milbrath & Gilchrist, P.A.
Suite 1401
255 South Avenue
P.O. Box 3791
Orlando, FL 32802-3791

EXAMINER

NOORI, MAX H

ART UNIT

PAPER NUMBER

2855

DATE MAILED: 05/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/848,648

Applicant(s)

DAVEY, KENNETH JOHN

Examiner

Max Noori

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 8-16 and 20-22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 and 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claim Objections

1. Claim 6, which depend on claim 3, (which depends on claim 1) recite a "fourth" channel, however, nowhere in the sequence of the claims a "third" channel was introduced.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Davey U.S. Patent No. 5,770,794.

Regarding claims 1, 17, Davey discloses a monitoring apparatus with features of the claimed invention including an electrometric pad (see, for example, col. 4, line , for engaging to a surface, and a set of cavities or channels (elements 11), sealingly engaged to the structure, an a fluid communication means (element 12), for providing isolated fluid communication to the channels, and corresponding constant vacuum source (element 17).

Regarding claim 2, the cited art show a transducer for monitoring the pressure difference between the cavity and source (see col. 3, lines 33-38).

Regarding claims 3-4, the cited art shows the use of plurality of cavities (co. 5, line 49).

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Regarding claims 5-6, Davey shows the use of plurality of channels (see, for example, figure 1).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 18-19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Davey in view of Oertle (U.S. Patent Number 4,104,906).

Davey does not exclusively recite a fluid communication to the atmosphere. Such arrangement in early crack detecting devices is however, notoriously known. Oertle, for example, is presented to show this arrangement. Since these arts are from the same field of endeavor, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Davey to provide for atmosphere communication means for general pressure release and pressure balancing.

6. Claims 8-16, and 20-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Max H. Noori whose telephone number is (703) 308-5248. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:30 PM.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956. The fax number for this group is (703) 308-7382.

MHN

Thursday, May 01, 2003



MAX NOORI
PRIMARY EXAMINER